

**IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
ALABAMA, SOUTHERN DIVISION**

KELLEY FOODS OF ALABAMA, INC.,)
)
Plaintiff,)
)
v.)
)
MYERS NISSI & COMPANY, INC.; a) CIVIL ACTION NO. 1:04 - cv-01246-
corporation d/b/a VERTICALSOFT,) MHT-DRB
)
Defendant.)

PLAINTIFF'S EXHIBIT LIST

COMES NOW plaintiff Kelley Foods of Alabama, Inc. ("Kelley Foods"), and pursuant to the Uniform Scheduling Order entered by this Court submits the following as its exhibit list.

Pursuant to the Uniform Scheduling Order, the following exhibits are hereby made available for inspection and copying at plaintiff's counsel's offices at a mutually agreeable time:

Expect to Use

1. VERTICALSOFT Operational Software designed by Myers, Nissi, & Company, Inc.
2. Myers, Nissi & Company, Inc. Operation Manual.
3. Navision International Program License Agreement (IPLA)
4. Navision Escrow Agreement
5. Myers Nissi Limited Warranty Agreements
6. Navision Upgrade and Support Agreement
7. Correspondence related to project (with attachments).
8. Itemization of computer upgrades and equipment.
9. Action Plan for Manufacturing Software and Implementation
10. Addendum to IPLA
11. Any document necessary for impeachment purposes.

/s/ Howard P. Walthall, Jr.

Howard P. Walthall, Jr. (WALT1113)
One of the Attorneys for Plaintiff
KELLEY FOODS OF ALABAMA

OF COUNSEL:

BURR & FORMAN LLP
3100 Wachovia Tower
420 North 20th Street
Birmingham, Alabama 35203
Telephone: (205) 251-3000
Facsimile: (205) 458-5100

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of August, 2006, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to all properly registered parties and to the extent they are not properly registered with the Court's ECF system, they have been served by directing same to their office addresses via first-class, United States mail, postage prepaid:

John Michael Herke
Paul Darren Palermo
Spyridon Koch Palermo & Dornan
Three Lakeway Center, Suite 3010
3838 North Causeway Boulevard
Metairie, LA 70002

/s/ Howard P. Walthall, Jr.
OF COUNSEL

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Defendant.)

PLAINTIFF'S WITNESS LIST

COMES NOW plaintiff Kelley Foods of Alabama, Inc. ("Kelley Foods"), and pursuant to the Uniform Scheduling Order entered by this Court, as amended, submits the following as its witness list.

WITNESSES

1. Edwin B. Kelley, President (Expect to Call)
Kelley Foods of Alabama, Inc.
P.O. Box 708
Elba, AL 36323
(334) 897-5761
2. Charles Scott Kelley, Assistant Vice President of Manufacturing and Project Manager (Expect to Call)
Kelley Foods of Alabama, Inc.
P.O. Box 708
Elba, AL 36323
(334) 897-5761
3. Alex D. Mount, Controller (Expect to Call)
Kelley Foods of Alabama, Inc.
P.O. Box 708
Elba, AL 36323
(334) 897-5761
4. Gerald D. Cross, Manager of Information Systems (Expect to Call)
Kelley Foods of Alabama, Inc.
P.O. Box 708

Elba, AL 36323
(334) 897-5761

5. Dwight D. Kelley, Vice President of Manufacturing (Expect to Call)
Kelley Foods of Alabama, Inc.
P.O. Box 708
Elba, AL 36323
(334) 897-5761
6. Kenneth O. Hattaway, Production Manager (Expect to Call)
Kelley Foods of Alabama, Inc.
P.O. Box 708
Elba, AL 36323
(334) 897-5761
7. Richard Nissi (May Call)
Myers Nissi & Co., Inc.
5 Pond Park Road, Suite 2
Hingham, MA 02189
8. Don Tyler (May Call)
Myers Nissi & Co., Inc.
5 Pond Park Road, Suite 2
Hingham, MA 02189
9. Jim Stoltz (May Call)
Myers Nissi & Co., Inc.
5 Pond Park Road, Suite 2
Hingham, MA 02189
10. Jack Reynolds (May Call)
Myers Nissi & Co., Inc.
5 Pond Park Road, Suite 2
Hingham, MA 02189
11. All persons necessary for rebuttal.
12. All persons listed by defendant to which plaintiff has no objection.

/s/ Howard P. Walthall, Jr.

Howard P. Walthall, Jr. (WALT1113)
One of the Attorneys for Plaintiff
KELLEY FOODS OF ALABAMA

OF COUNSEL:

BURR & FORMAN LLP
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/s/ Howard P. Walthall, Jr.
OF COUNSEL